



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 6, 2009

Ms. P. Armstrong
Assistant City Attorney
Criminal Law and Police Division
1400 South Lamar
Dallas, Texas 75215

OR2009-04453

Dear Ms. Armstrong:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 340310 (City of Dallas Open Records Request 2009-0748).

The Dallas Police Department (the "department") received a request for information related to four specific cases. You state that the department has released all of the requested information other than the submitted report, service #0232739-V. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of the responsive information.¹

Section 552.108(a)(1) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime [if] release of the information would interfere with the detection, investigation, or prosecution of crime." *Id.* § 552.108(a)(1). A governmental body claiming section 552.108 must reasonably explain how and why release of the requested information

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the submitted information relates to a pending criminal investigation. Based on this representation, we conclude that release of the portions of the submitted information you have marked under section 552.108(a)(1) would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e.*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Thus, the department may withhold the information you have marked pursuant to section 552.108(a)(1).

You have also marked certain information for exception under sections 552.130 and 552.147 of the Government Code. Each of these sections is intended to protect the privacy interests of the person whose information is at issue. *See Gov't Code* § 552.130, .147. In this instance, we note that the requestor is an attorney representing the person whose information is at issue. Under section 552.023 of the Government Code, a person has a special right of access to records that contain information relating to the person that are protected from public disclosure by laws intended to protect that person's privacy interests. *See id.* § 552.023. Thus, we conclude that the department may not withhold any of the information you have marked under sections 552.130 and 552.147.²

Finally, we note that you have raised section 552.101 of the Government Code in your brief, but you have neither explained how this exception is applicable to any of the remaining information nor marked any of the remaining information for exception under this exception. *See Gov't Code* § 552.301(e)(2) (governmental body claiming exception under Act must label submitted documents to indicate which exceptions apply to which parts of documents). Furthermore, upon review of the information at issue, it does not appear that any of the remaining information is excepted under section 552.101. *See id.* § 552.101 ("information considered to be confidential by law, either constitutional, statutory, or by judicial decision" excepted from disclosure under Act). Accordingly, we conclude that the department may not withhold any of the remaining information under section 552.101 of the Government Code.

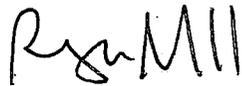
In summary, the department may withhold the information you have marked pursuant to section 552.108(a)(1) of the Government Code, but must release the remainder of the submitted information to the requestor.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

²However, because such information may be confidential with respect to the general public, if the department receives another request for this information from an individual other than this requestor, the department must again seek a ruling from this office.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Ryan T. Mitchell
Assistant Attorney General
Open Records Division

RTM/jb

Ref: ID# 340310

Enc. Submitted documents

cc: Requestor
(w/o enclosures)